

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**TENTATIVE RESOLUTION NO. R9-2004-0264**

**SETTLEMENT OF POTENTIAL LIABILITY  
AGAINST  
KB HOME COASTAL INC.  
FOR VIOLATIONS  
OF  
ORDER NO. 2001-96, NPDES NO. CAG919002  
GENERAL WASTE DISCHARGE REQUIREMENTS FOR GROUNDWATER  
EXTRACTION AND SIMILAR WASTE DISCHARGES FROM CONSTRUCTION AND  
REMEDATION PROJECTS TO SURFACE WATERS WITHIN THE SAN DIEGO  
REGION, EXCEPT FOR SAN DIEGO BAY**

*Whereas*, KB Home Coastal Inc. (hereinafter KB Home) owns and operates the Mar Lado Pump Station located at 401 Foussat Road, Oceanside, California. The discharge of extracted groundwater from KB Home's pump station is regulated under *Order No. 2001-96, NPDES NO. CAG919002, General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction And Remediation Projects To Surface Waters Within The San Diego Region, Except For San Diego Bay* (hereinafter Order No. 2001-96). KB Home applied for and received coverage under Order No. 2001-96 to discharge directly into the San Luis Rey River on April 1, 2003 (WDID No. 9 000001033); and

*Whereas*, on April 23, 2004, the Executive Officer of the California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) issued Complaint No. R9-2004-0116, Administrative Assessment of Civil Liability for Mandatory Minimum Penalties (hereinafter Complaint) in the amount of \$12,000 against KB Home for violation of Order No. 2001-96; and

*Whereas*, the Complaint alleges that on January 7, 2004, KB Home's discharge exceeded the Effluent Limitations of Order No. 2001-96 for Turbidity (chronic violation), Total Nitrogen Instantaneous Maximum (serious violation), Total Nitrogen Average Monthly (serious violation), and Total Phosphorus Average Monthly (serious violation). The Complaint allegations were based upon data in KB Home's monitoring report dated, submitted, and received by the Regional Board on March 11, 2004; and

*Whereas*, on May 26, 2004, KB Home provided written comments and evidence disputing the technical aspects of the Complaint allegations, specifically that there was no discharge to the San Luis Rey River on January 7, 2004 as reported by KB Home on March 11, 2004. Furthermore, KB Home offered to settle the Complaint without admission of liability by depositing \$5,000 into the State Water Pollution Cleanup and Abatement Account administered by the California State Water Resources Control Board.

**Whereas**, KB Home's settlement offer was publicly noticed in the North County Times on July 10, 2004. No comments were received during the 30-day public comment period. If the Regional Board accepts the settlement, the Complaint will be withdrawn from consideration; and

**Whereas**, by accepting the settlement offer tendered by KB Home, involving payment of less than the recommended civil liability without the need for a public hearing, the Regional Board will conserve valuable staff resources that would have been allocated to preparation for the hearing and responding to any administrative or judicial review requested by KB Home. Furthermore, the tendered amount is sufficient to deter KB Home from future reporting non-compliance, and should act as a deterrent to others; and

**Whereas**, the Regional Board has incurred costs in the amount of approximately \$2,520 to issue the Complaint (28 hours at \$90 per hour).

**THEREFORE BE IT RESOLVED**, that the California Regional Water Quality Control Board, San Diego Region, hereby directs the Executive Officer to execute an agreement with KB Home involving the payment of \$5,000 to the State Water Pollution Cleanup and Abatement Account in lieu of any formal enforcement proceeding to impose civil liability on KB Home for possible violations associated with Order No. 2001-96 on January 7, 2004, and the Executive Officer shall withdraw the Complaint.

This Resolution was issued by the California Regional Water Quality Control Board, San Diego Region on September 8, 2004.

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JOHN H. ROBERTUS  
Executive Officer